

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
FORT WAYNE DIVISION**

<b>IN RE:</b>	)	<b>Case No. 04-10427</b>
<b>AUBURN FOUNDRY, INC.,</b>	)	
	)	
<b>Debtor.</b>	)	<b>Chapter 7 Bankruptcy</b>
	)	
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<b>REBECCA HOYT FISCHER,</b>	)	
<b>Chapter 7 Trustee of</b>	)	
<b>Auburn Foundry, Inc.</b>	)	
<b>Plaintiff,</b>	)	
<b>v.</b>	)	<b>Adv. Proc. No. 08 - _____</b>
	)	
<b>RADIO SHACK CREDIT</b>	)	
<b>SERVICES,</b>	)	
	)	
<b>Defendant.</b>	)	

**COMPLAINT TO SUBORDINATE CLAIM NO. 177  
TO CLAIMS OF GENERAL UNSECURED CREDITORS**

COMES NOW Rebecca Hoyt Fischer, Chapter 7 Trustee, and files this Complaint against Radioshack Credit Services ("Creditor") and in support thereof states as follows:

1. The undersigned is a duly authorized and acting Chapter 7 Trustee (the "Trustee") of Auburn Foundry, Inc.
2. Defendant is a creditor in the above-captioned bankruptcy proceeding which, pursuant to its proof of claim indicates its address is RadioShack Corporation - Credit Services, attn: Judy Wong, 300 RadioShack Circle Mail Stop 5018, P.O. Box 961090, Fort Worth, TX 76161-5018.
3. The amount of the claim is \$58.28.
4. Creditor holds a lien against property, which secures the indebtedness, which is the basis of the claim filed in the above-captioned bankruptcy proceeding, which property has not been administered by the Trustee.
5. The value of such lien interest may substantially equal or exceed the amount of the Creditor's claim filed in the above-captioned bankruptcy proceeding. The Trustee asserts that it would

be inequitable to allow Creditor to participate in the general distribution to unsecured creditors in the above-captioned bankruptcy estate when Creditor may receive full payment of its claim from the liquidation of its collateral.

6. In order to prevent injustice or unfairness to the other unsecured creditors, Trustee believes that the appropriate remedy under 11 U.S.C. § 510(c), 11 U.S.C. § 508 and under Bostonian vs. Shapiro, 144 F2d. 791, 800 (8<sup>th</sup> Cir. 1944) is to equitably subordinate the claim of Creditor herein to the claims of other general unsecured creditors.

WHEREFORE, Trustee asks the Court to enter an order equitably subordinating the claim of Creditor herein to the claims of other unsecured creditors in the above-captioned bankruptcy estate and for such other relief as the Court deems just and proper under the circumstances.

Dated: February 6, 2008

Respectfully submitted,

Rebecca Hoyt Fischer, Chapter 7 Trustee of  
Auburn Foundry, Inc.

By: /s/ Rebecca H. Fischer #10537-72

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